

THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Postal code: 100738 Suite 1602, Tower E2, The Towers, Oriental Plaza, No.1, East Chang An Ave., Dongcheng District, Beijing 100738, P. R. China BEIJING EAST IP LTD. Yi WANG	Date of Issue: August 28, 2009
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Applicant: Cisco Technology, Inc.
Application No. 200480026215.5
Title of the Invention: METHOD AND APPARATUS OF COMMUNICATING SECURITY/ENCRYPTION INFORMATION TO A PHYSICAL LAYER TRANSCEIVER

THE SECOND OFFICE ACTION

1. ☒ The examiner received the response submitted by the applicant on July 24, 2009 and further examination as to substance has been carried out on the above-identified patent application for invention on this new basis.

☐ According to the Reexamination Decision made by the Patent Reexamination Board of the Patent Office on ____ examination as to substance on the above-identified application has been resumed.

2. ☐ Amended documents submitted by the applicant on ____ can not be allowed based on the provision of paragraph 3, Rule 51 of the Implementing Regulations of the PRC Patent Law. the applicant should submit amended documents that is indicated to be in conformity with the requirement within the time limit, otherwise the application shall be deemed to have been withdrawn.

3. Further examination as to substance has been carried out based on the documents as specified below:

☐ The amended application documents attached to the response to the previous Office Action.

☒ The application documents based on which the previous examination was carried out and the substitution pages attached to the response to the previous Office Action.

☐ The application documents based on which previous examination was carried out.

☐ The application documents confirmed by the Reexamination Decision.

4. ☒ No new references were cited in this notification.

☐ The following reference materials have been cited in this notification (their serial numbers will be referred to in the following procedure):

Serial Number	Number or Title of Reference Material	Publication Date (or Filing Date of A Conflict Patent Application)

5. The conclusion of the examination:

☐ In regard to the description:

☐ The amendments to the description do not comply with Article 33 of the Patent Law.

☐ The subject matter contained in the application is not patentable under Article 5 of the Patent Law.

- ☐ The description does not comply with Article 26 paragraph 3 of the Patent Law .
 - ☐ The draft of the description is not in conformity with the provision of Rule 18 of the Implementing Regulations of the PRC Patent Law.
 - ☒ In regard to the Claims:
 - ☐ Claims ____ can not be allowed owing to lack of novelty based on the provision of paragraph 2, Article 22 of PRC Patent Law.
 - ☐ Claims ____ can not be allowed owing to lack of inventiveness based on the provision of paragraph 3, Article 22 of PRC Patent Law.
 - ☐ Claims ____ can not be allowed owing to lack of the practical applicability based on the provision of paragraph 4, Article 22 of PRC Patent Law.
 - ☐ Claims ____ is/are not patentable under Article 25 of the Patent Law.
 - ☒ Claims 1,11 can not be allowed based on the provision of paragraph 4, Article 26 of PRC Patent Law.
 - ☐ The amendments to claims ____ do not comply with Article 33 of the Patent Law.
 - ☐ Claims ____ can not be allowed based on the provision of paragraph 1, Article 31 of PRC Patent Law.
 - ☒ Claims 5,15 can not be allowed based on the provision of Rules 20 of the Implementing Regulations of the PRC Patent Law.
 - ☐ Claims ____ can not be allowed based on the provision of Rules 21 of the Implementing Regulations of the PRC Patent Law.
 - ☐ Claims ____ can not be allowed based on the provision of Rules 23 of the Implementing Regulations of the PRC Patent Law.
 - ☐ Claims ____ do not belong to the definition of invention based on the provision of paragraph 1, Rule 2 of the Implementing Regulations of the PRC Patent Law.
 - ☐ Claims ____ can not be allowed based on the provision of Article 9 of PRC Patent Law.
 - ☐ Claims ____ can not be allowed based on the provision of paragraph 3, Rules 51 of the Implementing Regulations of the PRC Patent Law.
- The analysis of above conclusion is given in the text of this office action.

The explanation of the conclusion is given in the attachment sheet in details

6. According to the above conclusion, it is considered that
- ☐ The applicant should amend the application documents based on the request in the Attachment Sheet.
 - ☒ The applicant should state the reason on which the application can be accepted and amend the part that is indicated not to be in conformity with the requirement, otherwise the application will be rejected.
 - ☐ No subject matter in the application is accepted, said application will be rejected if the applicant does not make a statement or fail to make a statement.
 - ☐ The applicant should submit the amended documents based on the request in the Attachment Sheet.
7. The applicant is drawn attention to that
- (1) In accordance with the provisions of Article 37 of the Chinese Patent Law, the applicant shall submit the observations within two months from the date of receiving this notification. If the applicant, without any justified reason, fails to reply within the time limit, the application shall be deemed to have been withdrawn.
 - (2) The applicant shall make amendments to what is not in conformity with the provisions in the text of this notification. The amended text shall be furnished in duplicate. The formality of the document should be in conformity with the relative provisions of the Guidebook for Examination.

(3) The applicant and/or his attorney could not go to the PRC Patent Office to meet the examiner if no appointment is made.

(4) Any response and/or amended specification must be mailed or sent by hand to the Receiving Department of the PRC Patent Office. Any documents that are not sent to the Receiving Department do not have legal force.

8. The text of the notification embraces 1 page, along with the enclosures herein:

☐ ____ copy of the cited references is enclosed in pages of ____.

Patent Examination Assistance Center

Examiner: Jianbo LIU (9462)

TEXT OF THE SECOND OFFICE ACTION

Application No. 2004800262155

1. Claims 1 and 11 do NOT conform to the stipulations of Article 26, Paragraph 4 of the *Patent Law of the PRC*.

The apparatus as recited in claim 1 comprises analog circuitry, digital circuitry, a PHY communications module, a crypto device and a crypto communications module. However, the claim fails to specifically describe how these components process and transfer data so as to provide link layer security in a Physical Layer Transceiver. Therefore, claim 1 covers a broader scope than what is disclosed in the specification. It is impossible for those skilled in the art to predict that, besides those explicitly disclosed in the specification, other specific embodiments covered by the generalization in claim 1 can also realize the claimed invention. Therefore, claim 1 is not supported by the specification, and thus does NOT conform to the stipulations of Article 26, Paragraph 4 of the *Patent Law of the PRC*.

Claim 11 has the similar defect as claim 1, and thus does NOT conform to the stipulations of Article 26, Paragraph 4 of the *Patent Law of the PRC*, either.

2. Claims 5 and 15 do NOT conform to the stipulations of Rule 20, Paragraph 1 of the *Implementing Regulations of the Patent Law of the PRC*.

Claim 5 recites "master communications module". However, the claim fails to clarify the relationship between the "master communications module" and the claimed invention. This renders the scope of the claim indefinite, a matter that does NOT conform to the stipulations of Rule 20, Paragraph 1 of the *Implementing Regulations of the Patent Law of the PRC*.

Claim 15 has the similar defect as claim 5, and thus does NOT conform to the stipulations of Rule 20, Paragraph 1 of the *Implementing Regulations of the Patent Law of the PRC*, either.

For the above reasons, amendments should be made to the application based on the opinions set forth above within the specified time limit for response. Any amendments made to the application must NOT go beyond the scope of the disclosure contained in the initial specification and claims to conform to the stipulations of Article 33 of the *Patent Law of the PRC*. Otherwise, the application will be rejected.

Examiner: Jianbo LIU

Code: 9462

OBSERVATION TEXT

In response to the second Office Action issued by the Examiner on August 28, 2009 for the present application, the following is respectfully submitted.

1. The Examiner holds that claims 1 and 11 are not supported by the specification.

Based on page 3, lines 1-4, 13-15 and 18-20; page 4, lines 1-7; page 4, line 35 to page 5, line 2; page 5, lines 25-36; page 5, line 37 to page 6, line 10; and FIGS. 4 and 5, claims 1 and 11 are amended to further specify how the crypto device processes the data to provide crypto functions. Thus, claims 1 and 11, as amended, explicitly describe the coupling relationships and interactions among the elements of the claimed apparatus, and describe how these elements and, in particular, the inventive crypto device, process and transfer data to thereby provide link layer security in a physical layer transceiver.

Applicant believes that claims 1 and 11 as amended are based on the specification and supported by the specification.

2. The Examiner holds that the relationship between the “master communications module” in claims 5 and 5 and the claimed apparatus is not clear.

Based on page 7, lines 8-11 of the original specification, further limitations are added to the “master communications module” in claims 5 and 15 to clarify its purpose in the claimed apparatus. Applicant believes that the scopes of claims 5 and 15, as amended, are definite.

3. Based on the amendments made to the claims, the “Summary of Invention” section of the specification is amended accordingly.

Applicant respectfully requests reconsideration and allowance of the present application in view of the above arguments and the amendments.



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发文日

申请号: 2004800262155



申请人: 思科技术有限公司

发明名称: 向物理层收发器传输安全性/加密信息的方法和装置



第 2 次审查意见通知书

1. ☒ 审查员已收到申请人于2009年7月24日提交的意见陈述书,在此基础上审查员对上述专利申请继续进行实质审查。

☐ 根据国家知识产权局专利复审委员会于 年 月 日作出的复审决定,审查员对上述专利申请继续进行实质审查。

☐

2. ☐ 申请人于 年 月 日提交的修改文件,不符合专利法实施细则第51条第3款的规定。

3. 继续审查是针对下述申请文件进行的:

☐ 上述意见陈述书中所附的经修改的申请文件。

☒ 前次审查意见通知书所针对的申请文件以及上述意见陈述书中所附的经修改的申请文件替换页。

☐ 前次审查意见通知书所针对的申请文件。

☐ 上述复审决定所确定的申请文件。

☐

4. ☒ 本通知书未引用新的对比文件。

☐ 本通知书引用下述对比文件(其编号续前,并在今后的审查过程中继续沿用):

编号

文件号或名称

公开日期(或抵触申请的申请日)

5. 审查的结论性意见:

☐ 关于说明书:

☐ 申请的内容属于专利法第5条规定的不授予专利权的范围。

☐ 说明书不符合专利法第26条第3款的规定。

☐ 说明书的修改不符合专利法第33条的规定。

☐ 说明书的撰写不符合专利法实施细则第18条的规定。

☐

☒ 关于权利要求书:

☐ 权利要求 不具备专利法第22条第2款规定的新颖性。

☐ 权利要求 不具备专利法第22条第3款规定的创造性。

☐ 权利要求 不具备专利法第22条第4款规定的实用性。

☐ 权利要求 属于专利法第25条规定的不授予专利权的范围。

☒ 权利要求 1、11 不符合专利法第26条第4款的规定。

☐ 权利要求 不符合专利法第31条第1款的规定。

☐ 权利要求 的修改不符合专利法第33条的规定。

☐ 权利要求 不符合专利法实施细则第2条第1款的规定。

☐ 权利要求 不符合专利法实施细则第13条第1款的规定。

☒ 权利要求 5、15 不符合专利法实施细则第20条的规定。



- ☐ 权利要求 不符合专利法实施细则第 21 条的规定。
☐ 权利要求 不符合专利法实施细则第 22 条的规定。
☐ 权利要求 不符合专利法实施细则第 23 条的规定。
☐
☐ 分案的申请不符合专利法实施细则第 43 条第 1 款的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见,审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求,对申请文件进行修改。
☒ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由,并对通知书正文部分中指出的不符合规定之处进行修改,否则将不能授予专利权。
☐ 专利申请中没有可以被授予专利权的实质性内容,如果申请人没有陈述理由或者陈述理由不充分,其申请将被驳回。
☐

7. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定,申请人应在收到本通知书之日起的两个月内陈述意见,如果申请人无正当理由逾期不答复,其申请将被视为撤回。
 (2) 申请人对其申请的修改应符合专利法第 33 条和实施细则第 51 条的规定,修改文本应一式两份,其格式应符合审查指南的有关规定。
 (3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处,凡未邮寄或递交给受理处的文件不具备法律效力。
 (4) 未经预约,申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 1 页,并附有下列附件:

- ☐ 引用的对比文件的复印件共 份 页。
☐



审查员: 陈波列 (2)

审查部门 审查协作中心



第二次审查意见通知书正文

申请号：2004800262155

1. 权利要求1、11不符合专利法第二十六条第四款的规定。

权利要求1中涉及所要求保护的装置包括模拟电路、数字电路、PHY通信模块、密码设备、密码通信模块，但是没有具体说明这些组成部分是如何处理和传递数据以实现在物理层收发器中提供链路层的安全性。因此权利要求1相对于说明书概括了一个较宽的保护范围，同时本领域技术人员难于预见该上位概念所包含的除上述说明书充分公开的内容之外的其他下位概念均能实现本发明所要求保护的技术方案。因此权利要求1不能得到说明书的支持，不符合专利法第二十六条第四款的规定。

权利要求11也存在权利要求1的上述缺陷，因此也不符合专利法第二十六条第四款的规定。

2. 权利要求5、15不符合专利法实施细则第二十条第一款的规定。

权利要求5中涉及“主通信模块”，但是没有明确说明该主通信模块与所要求保护的技术方案之间存在何种关系，因此导致权利要求的保护范围不清楚，不符合专利法实施细则第二十条第一款的规定。

权利要求15也存在权利要求5的上述缺陷，因此也不符合专利法实施细则第二十条第一款的规定。

基于上述理由，申请人应根据上述审查意见在指定的期限内对申请文件进行修改，修改时应满足专利法第三十三条的规定，不得超出原说明书和权利要求书的记载范围。否则本申请将被驳回。

审查员：刘剑波

代码：9462